

1 Q. So Briggs, your supervisor, came to you because
2 someone had concerns about your backing habits?

3 A. I can't remember exactly what the situation was
4 there.

5 Q. But Ralph came to talk to you about your --

6 A. Ralph came to talk to me and asked me about it.

7 Q. Do you remember what prompted Ralph to come to
8 you? Did he say, you know, Joe, Allen, Jake has come to
9 me, complained about your driving? What happened?

10 A. As far as I know, he did not name anybody.
11 Maybe that was where Allen come up with this, but he did
12 not name anybody. He didn't say anybody.

13 Q. Is that the time --

14 A. Just asked me what I, you know, what the
15 procedures were.

16 Q. Is that the time that you voluntarily
17 surrendered your license to drive the fork truck?

18 A. Yeah. I believe that was one.

19 Q. So there were many times that you were talked to
20 about your driving, and you offered to give up your
21 license to drive?

22 A. There was a couple of times. I spilled a load
23 of cans back in the warehouse.

24 Q. And who talked to you about that?

25 A. Ralph Briggs.

1 Q. You offered to give up your license to him then?

2 A. Ralph Briggs and --

3 Q. Luther?

4 A. -- Luther Smith talked to me.

5 Q. How about Walt Ballantine, Valentine?

6 A. Walt Valentine, I can't remember exactly. I
7 think I talked to Ralph. And then I got called into
8 Valentine's office after that.

9 Q. And you offered to give up your license then?

10 A. Both times.

11 Q. And what did they say?

12 A. They wouldn't take them.

13 They said, "You'll need them."

14 Q. Was there ever a period of time at or about
15 those incidents that you didn't drive a fork truck the
16 next day?

17 A. If you're asking if they ever told me not to
18 drive the truck, if I was ever actually suspended, I do
19 not know of anytime where I was told that you are
20 suspended from driving a truck by any of them. By Luther,
21 Walt, or Ralph or any of them. The only time I'd ever
22 suspended from driving a truck was after the accident with
23 Jake.

24 Q. You were counseled by Ralph Briggs once about
25 backing, right?

1 Q. Maybe you don't recall it. I want to take you
2 to the day of the accident, and you told me you had picked
3 up the truck in the corner or near the manufacturing?

4 A. Right.

5 Q. Were you on your way back to the warehouse when
6 somebody grabbed you and said, "Hey, we need this out on
7 the dock, because we don't want it inventoried"?

8 A. Yes.

9 Q. Do you recall who told you that?

10 A. No, I can't remember.

11 Q. Was it a supervisor?

12 A. I was trying to remember who exactly it was. I
13 don't remember if it was the supervisor.

14 I don't remember who exactly it was, because he
15 said, "Please take this out on the dock. We don't want
16 that inventoried."

17 Q. Do you know why something would not be
18 inventoried?

19 A. Well, they don't want to count it for some
20 reason or another. Maybe it was supposed to have been
21 scrapped and not supposed to have been in there to start
22 with. I don't know.

23 Q. Do you remember what it was?

24 A. It was a partial skid of cans.

25 Q. Normal four-by-four skid?

1 A. A couple of inches.

2 Q. You can see everything in front of you heading
3 back to that big garage door type door?

4 A. Yes.

5 Q. When you got to that door, what did you do?

6 A. When I got to the door, tooted my horn and
7 looked. I didn't see anybody. I didn't see him. Didn't
8 see no fork truck or anything.

9 Q. You didn't see him, you pointed to Jake?

10 A. Yes, I'm sorry. I didn't see Jake or his fork
11 truck or anything. I turned --

12 Q. Wait a minute. A lot of this isn't going --

13 A. I turned to the left. I turned to the left, and
14 there was a space there, and there was a space right there
15 beside the door to put the load, but I had to back up and
16 pull forward again to put the load down in that space to
17 get it close to the wall.

18 Q. Was there other product or skids out on the dock
19 at that time?

20 A. Yeah, all the way along the wall, yeah.

21 Q. I'm going to show you what's been marked in a
22 prior deposition, Ralph Briggs. This way, David and I
23 won't have a whole bunch of photographs floating around of
24 the same thing. And it's Plaintiff's Exhibit 3. Ralph
25 told us that this is a pretty fair and accurate depiction

1 of --

2 A. That's the way it's supposed to look.

3 Q. -- the dock, and then I've got Exhibit 4 which
4 is just another view of the same area.

5 A. Uh-huh.

6 Q. And Exhibit 5 which I believe to be, and correct
7 me if I'm wrong, that big garage door type exit that you
8 would have driven your fork truck out?

9 A. Uh-huh.

10 Q. And you indicated that you drove out that door
11 after honking your horn?

12 A. Uh-huh.

13 Q. Turned to the left?

14 A. Turned to the left, yeah.

15 Q. And the storage rack area at that time would be
16 behind you?

17 A. Would have been on the right, yes.

18 Q. This Exhibit 7 is again just another view of the
19 same door?

20 A. Uh-huh.

21 Q. And also 8 is kind of down that ramp looking up
22 towards the corner of the building there.

23 A. Uh-huh.

24 Q. And I think maybe Exhibit 7 could help us. To
25 the right of the door, you've got a pedestrian door or a

1 Q. Tell me the sequence of events as you come out,
2 turn to the left, what did you do before backing up to
3 reposition?

4 A. Looked back and didn't see anybody, so I backed
5 up and angled myself, you know, swung it so that I could
6 go pretty much flat along that wall.

7 Q. Because as you turned left out of the door, your
8 forks would have been more angled out towards the rail
9 tracks?

10 A. Well, when I come out the door and made my turn,
11 I went out far enough that if there was anything up
12 against the wall, you know, I wouldn't have to worry about
13 running anything against that wall, you know, going out, I
14 don't know what you call, more out in the center of the
15 dock.

16 Q. Kind of like semis do?

17 A. Yeah. Well, I mean just normal, a normal turn.
18 I didn't try to make a very tight turn to get right up
19 against that wall right away. I had no idea whether an
20 open space would have been out on that dock. Normally
21 that entire wall is pretty well covered with cans, so --

22 Q. From where you were placing that skid, when you
23 looked back over your shoulder, was there anything
24 obstructing your view of the tank storage rack?

25 A. Not that I know of.

1 Q. It wasn't in your blind spot?

2 A. I don't remember. I don't remember whether I
3 actually saw it or not.

4 Q. Well, you were familiar with driving the Toyota
5 truck having driven it for two years?

6 A. Yeah.

7 Q. And you --

8 A. I guess it had been that long. I can't remember
9 when exactly they changed. It had been awhile.

10 Q. Do you recall just from your experience from
11 looking at that picture and pointing out where you think
12 you placed the skid, had you looked over your shoulder,
13 would you have been able to see, not did you, but would
14 you have been able to see the tank storage rack?

15 A. When I looked to the left up against the wall,
16 yeah, I could see the tank storage.

17 Q. So you pull out --

18 A. Looking back the other way, I don't remember
19 seeing it.

20 Q. Okay.

21 A. I remember looking in the mirror, once I set the
22 skid down, I remember double-checking in my mirrors, and
23 the only thing I could see in my mirror, because I was
24 still at a little bit of angle, was the white tanks out in
25 the field, so I had to turn to look, to actually be able

1 to see what was behind me.

2 Q. Tell me what you did after you placed the skid?

3 A. After I placed the skid?

4 Q. Yeah.

5 A. I looked back and backed up.

6 Q. Okay. You're showing me you looked over your
7 right shoulder?

8 A. I looked over my right shoulder, and I was
9 against the wall, and I saw the skids, and you really
10 can't see anything this way, so I looked the other way.

11 Q. So there were skids behind you?

12 A. No, no, no. I was up against the wall. I was
13 within a foot or so.

14 Q. You were looking in your mirrors?

15 A. No, I physically turned my head and looked back.
16 I looked to the right, and because I wasn't quite straight
17 at the wall, I could see the white, whatever kind of tanks
18 they are out in the field, so I had to look to see, and I
19 looked back around, and I'm up against the wall, and I did
20 see the tanks I think, pretty sure I remember actually
21 seeing the tanks, but I'm up against the wall, and I
22 thought you've got to look back the other way too, so I
23 looked back the other way, and I still didn't see
24 anything, because I wanted to know why I could see those
25 tanks out in the field, why I couldn't see on down the

1 A. Yeah, I guess it's possible, but I sure don't
2 remember seeing him. I keep trying to remember, seems
3 like I've been trying to remember from that day when I
4 went out that door, it seemed like all I saw was empty
5 dock in both directions. I got so shook up and so
6 confused, even at that time, I really got shook up, and,
7 you know, they thought I was going to have a heart attack,
8 and I guess I was awful close to it.

9 Q. I don't want to give that to you.

10 A. Hmm?

11 Q. I don't want to give that to you sitting here.

12 A. What's that, a heart attack?

13 Q. Yeah. If you need to take a break, you let me
14 know.

15 A. No. I've been treated for depression ever since
16 that day, and I took my pills last night. I should be
17 fine.

18 Q. Were you in a hurry that day?

19 A. Yep. They were rushing us around like they
20 always did on those days to get things done.

21 Q. You were always in a hurry on inventory day?

22 A. Inventory day, they always pushed hard.

23 Q. The company pushes you hard to get it done?

24 A. Yeah, they want to get it done and get home.

25 Q. From your position backing to where you

1 A. I think so. I imagine.

2 Q. Has its placement been changed at all? Is it
3 either further away from this corner or closer to the
4 door?

5 A. No.

6 Q. Do you know approximately how much distance
7 there is from the far right edge of the tank rack to the
8 door where you were planning on going back in?

9 A. No, I don't know what it was.

10 Q. Do you know how far you had to back up in order
11 to clear the forks to go back in that door?

12 A. Well, no. Approximately all the way back to
13 just about back to the tanks.

14 Q. So then --

15 A. To the edge of the rack I should say I guess.
16 That far in order to have clearance to be able to make
17 that turn.

18 Q. Tell me what you felt or what you heard when you
19 backed up?

20 A. I started backing up and felt a thud, and I
21 thought what in the world is that? And then I heard Jake.

22 Q. What did he say?

23 A. He said, "Bob, pull forward."

24 Like I said, I already had the brakes on, and I
25 pulled forward. Of course he fell, and he fell, and I was

1 going to try to help him, but I thought get help. You
2 can't help this guy. You're too personally involved.
3 You've got to get help.

4 Q. You didn't leave him pinned between the two
5 trucks?

6 A. No. No, I pulled forward. He told me to pull
7 forward, and I pulled forward, didn't I, Jake?

8 MR. WILLIAMS: No, you didn't, Bob.

9 BY MR. ALLEN:

10 Q. Who did you go to?

11 A. I went running in the plant looking for anybody
12 I could. First man I seen, I can't remember who it was I
13 saw.

14 I told him, I said, "I hit Jake. He's out on
15 the dock."

16 I can't remember who it was. He headed that
17 way, and then next guy I saw I think was Ralph, and I told
18 him the same thing.

19 I said, "I hit Jake. He's out on the dock."

20 I believe that's the exact words I used even. I
21 can't remember, but I think it is.

22 Q. Then did you go back out to the dock?

23 A. Yeah, I went back out to the dock and sit down
24 on a skid of cans out there.

25 Q. The ones that you took out?

VERBAL REPRIMAND

DATE: 2/18/00

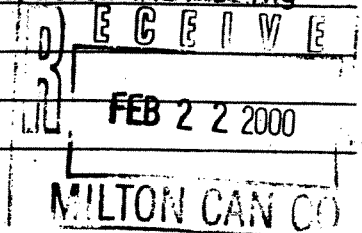
EMPLOYEE: BOB FRANCIA SEN. DATE: 3/11/76 DEPARTMENT: _____

EMPLOYEE'S POSITION: _____ DATE OF POSITION: _____

INCIDENT REPORT (DESCRIPTION OF VIOLATION[S]):

THE FOLLOWING VIOLATION(S) HAS/HAVE OCCURRED AND NECESSITATE THE ISSUANCE OF A VERBAL REPRIMAND. THIS NOTICE WILL BECOME PART OF YOUR PERMANENT PERSONNEL RECORD. FURTHER VIOLATIONS WILL RESULT IN DISCIPLINARY ACTION.

This reprimand is for operating your tow motor in an unsafe manner resulting in the following incidents: 2/7- failure to look behind you before backing up; 2/8- spilled load of cans; 2/8- sliding off back of dock. Any future incidents of unsafe operation will bring further disciplinary action.

**EMPLOYEE'S COMMENTS:**

2-18-00
DATE GIVEN TO EMPLOYEE

Robert S Francia
EMPLOYEE'S SIGNATURE

COMMENTS

(INCLUDING RECOMMENDED CORRECTIVE ACTIONS, FOLLOW-UP INSTRUCTIONS, ETC.)

People in this plant ignore trucks totally. Loads loosen up after setting for months loads are moved to salvage without proper banding from all shifts. (over)

Luther Smith
SUPERVISOR

Walt Valentine 2/21/00
OPERATIONS MANAGER

Walt Valentine

MDC 2/18/00
HUMAN RESOURCES MANAGER

UNION REPRESENTATIVE

MDC

ORIGINAL: PERSONNEL FILE/HR OFFICE
COPIES: SUPERVISOR
UNION REPRESENTATIVE (FORM ONLY)
EMPLOYEE

